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September 4, 2024

Via ECF

Hon. Jennifer L. Rochon
United States District Court
Southern District of New York
500 Pearl Street, Room 1920
New York, New York 10007

Defendants are directed to respond to this letter by **September 6, 2024, at 12:00 p.m.**

Dated: September 4, 2024
New York, New York

SO ORDERED.

Jennifer Rochon
JENNIFER L. ROCHON
United States District Judge

Re: *Anthony Braxton v. City of New York, et al.*,
24 Civ. 6191 (JLR)(RFT)

Your Honor,

This office represents the plaintiff in the above-referenced civil rights action. This matter has been noticed for participation in the § 1983 Plan. Plaintiff commenced this action on August 15, 2024. *See* Dkt. No. 1. In his Complaint, Plaintiff alleges that he was walking in the vicinity of 36th Street and 12th Avenue in Manhattan on or about October 5, 2023, when he was unlawfully stopped by presently unknown police officers assigned to the New York City Police Department's mobile police unit located thereat. Said officers tightly handcuffed and leg shackled Plaintiff and detained him in the mobile police unit. Plaintiff was sat on a bench therein and then forcefully pushed backwards by an officer, causing Plaintiff to fall backwards onto his tightly cuffed hands and experience severe pain. After approximately 30 minutes of being forced into this stress position, Plaintiff lost consciousness. Thereafter, unknown officers transported Plaintiff to Mount Sinai West in a patrol car and escorted him into the emergency room, where they left him – uncuffed and without explanation. No formal criminal process was initiated against Plaintiff. As a result of the foregoing, Plaintiff suffered and continues to suffer from bilateral nerve damage and weakness below the elbows, bruising and scarring to his wrists, and other significant bodily injuries, as well as psychological and emotional injuries, and pecuniary loss. *Id.*, ¶¶ 1-3.

Defendant City of New York was promptly served with the Summons and Complaint on August 19, 2024. (Dkt. No. 5). A CPL § 160.50 Release and HIPAA-compliant authorizations permitting the defendants to obtain Plaintiff's medical records were served by electronic mail upon the City of New York on August 23, 2024. In the August 23rd email, it was requested that the City of New York contact the undersigned to discuss identifying the John Doe officers. To date, defense counsel has not contacted the undersigned. As this matter placed in the § 1983 Plan, the defendants' Answer is not due until November 7, 2024 – eighty (80) days from August 19, 2024. For the reasons set forth below, Plaintiff respectfully submits that he cannot wait that long to identify the officers involved.

Accordingly, I write to respectfully request that Your Honor issue an Order directing defendant City of New York and its counsel to investigate and identify the police officers and supervisory personnel involved in the incidents alleged in the Complaint, as well as those at the scene of the subject incidents so that Plaintiff can amend his Complaint prior to the expiration of the statute of limitations for his state law

claims. *See, e.g., Valentin v. Dinkins*, 121 F.3d 72 (2d Cir. 1997) (per curiam). I have included herewith a proposed Order for the Court's consideration. This issue is of pressing concern to Plaintiff as the statute of limitations on his state law claims expires on October 5, 2024.

It is worth noting that my office attempted to obtain this information prior to seeking the Court's intervention but has been unsuccessful in our efforts. To wit, a Freedom of Information Law request was sent to the NYPD on or about October 19, 2023, with a supplemental request made on March 12, 2024. Although the NYPD indicated that responses to our requests would be received by March 11, 2024 and July 26, 2024, respectively, no such responses have been received to date. Plaintiff seeks this information now so that their rights to pursue claims against the unidentified officers and agents are not prejudiced. The City of New York and its Police Department have routine access to the records necessary to correctly identify the police officers involved and/or present and there should be no impediment to this defendant or its counsel obtaining same in a prompt manner. Likewise, Plaintiff's request does not impose any additional burden upon the defendant or counsel as these records would presumably be provided in the defendant's Fed. R. Civ. P. 26(a) disclosures and/or in response to interrogatories and document requests propounded by Plaintiff.

As such, Plaintiff respectfully requests that this Court give this application its immediate attention so that the defendant can locate and provide the full name of the police officers in question so that Plaintiff has ample time to file an Amended Complaint prior to October 5, 2024.

Additionally, Plaintiff requests that the Court toll the statute of limitations against these officers pending receipt of the requested information from the City of New York and/or allow Plaintiff to file an Amended Complaint *nunc pro tunc* after October 5, 2024.

I hereby certify that a copy of this letter motion, with the accompanying proposed Order, was emailed to the New York City Law Department via serviceecf@law.nyc.gov on September 4, 2024.

I thank the Court in advance for its time and consideration to this time-sensitive matter.

Respectfully submitted,

HELD & HINES, LLP

/s/ Philip Hines

Philip M. Hines, Esq.

cc: New York City Law Department (via email)

Encl.